STATUTORY INSTRUMENTS

2008 No. 2168

EXCISE

The Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2008

Made - - - -	*13th August 2008*
Laid before the House of Commons	*14th August 2008*
Coming into force - -	*1st October 2008*

The Treasury make the following Order in exercise of the powers conferred by sections 1(2) and 2(3) of the Excise Duties (Surcharges or Rebates) Act 1979(**a**):

Citation and commencement

1.—(1) This Order may be cited as the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2008.

(2) It comes into force on 1st October 2008 and has effect in relation to products that are charged with duty under the Oil Act on or after that date.

Interpretation

2. In this Order—

(a) expressions used in this Order and in section 27(1) (interpretation) of the Oil Act(**b**) have the same meaning as in the Oil Act;

(b) "fuel oil" has the same meaning as in section 11(2) of the Oil Act(**c**);

(c) "fuel substitutes duty" means the duty charged by section 6A(1) of the Oil Act(**d**);

(**a**) 1979 c. 8; relevant amendments have been made by section 10(2) of the Finance Act 1980 (c. 48), section 10(1) of the Finance Act 1982 (c.39) and section 11(4) of the Finance Act 1993 (c.34). Section 2(2) provides that an order made under the Act shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order.

(**b**) 1979 c. 5; relevant amendments were made by section 4(4) of the Finance Act 1982 (c.39) ("aviation gasoline"), section 5 of, and paragraph 6 of Schedule 2 to, the Finance Act 2002 (c. 23) ("biodiesel"), section 10 of the Finance Act 2004 (c. 12) ("bioethanol"), section 7 of the Finance Act 1997 (c.16) ("gas oil"), paragraph 9 of Schedule 3 to the Finance Act 2002 (c. 23), section 1 of the Finance Act 1987 (c.16) and section 3 of the Finance Act 2001 (c. 9) ("rebate"), and section 5 of the Finance Act 2000 (c. 17) ("unleaded petrol").

(**c**) Section 11(2) was substituted by section 2(3) of the Finance Act 1986 (c.41) and amended by Part 1 of Schedule 18 to the Finance Act 1997 (c. 16).

(**d**) Section 6A was inserted by section 11(1) of the Finance Act 1993 (c.34), and amended by section 11 of the Finance Act 2000 (c. 17), section 7(1) of, and paragraph 2 of Schedule 2 to, the Finance Act 2002 (c.23) and sections 10(4) and 12(1) of the Finance Act 2004 (c. 12).

(d) "hydrocarbon oil duty" means the duty charged by section 6(1) of the Oil Act(**a**);

(e) "the Oil Act" means the Hydrocarbon Oil Duties Act 1979(**b**).

Adjustments of liability to duty on hydrocarbon oil, biodiesel and bioethanol

3.—(1) The following are adjusted in accordance with Table A—

(a) the liability to hydrocarbon oil duty in respect of the products listed in rows *(a)* to *(d)*;

(b) the liability to the duty charged on biodiesel by section 6AA(1) of the Oil Act(**c**);

(c) the liability to the duty charged on bioethanol by section 6AD(1) of the Oil Act(**d**),

by the deduction from the amount payable of the percentages specified in column *(C)*.

Table A

	(A)	*(B)*	*(C)*	*(D)*
	Product	Amount payable before adjustment (pence per litre)	Percentage deduction	Amount payable after adjustment (pence per litre)
(a)	Unleaded petrol	52.35	3.82	50.35
(b)	Light oil other than unleaded petrol	62.07	3.22	60.07
(c)	Heavy oil	52.35	3.82	50.35
(d)	Aviation gasoline	31.03	3.22	30.03
(e)	Biodiesel	32.35	6.18	30.35
(f)	Bioethanol	32.35	6.18	30.35

(2) The figures in columns *(B)* and *(D)* are only for ease of reference and comprehension of effect.

Adjustments of rights to rebate of duty on hydrocarbon oil

4.—(1) The following are adjusted in accordance with Table B—

(a) the right to rebate allowed by section 11(1) (heavy oils not for road fuel use) of the Oil Act(**e**) in respect of the products listed in rows *(a)* and *(b)*;

(**a**) Section 6(1) has been amended by section 4(1) of the Finance Act 1981 (c.35), section 4(2) of the Finance Act 1982 (c.39), section 1(1) of the Finance Act 1989 (c.26), section 7(2) of the Finance Act 1997 (c. 16), section 6(1) of the Finance Act 1998 (c.36) and paragraph 4(2) of Schedule 6 to the Finance Act 2008 (c.9). The rates of excise duty charged under section 6(1) are specified in section 6(1A). Section 6(1A) was inserted by section 7(3) of the Finance Act 1997 (c.16) and has been amended by sections 4(1) and 5(3) of the Finance Act 2000 (c. 17), section 1(1) and (2) of the Finance Act 2001 (c. 9), section 4(1) of the Finance Act 2003 (c. 14), sections 5(1) and 7(5) of the Finance Act 2004 (c. 12), sections 4(2) and 5(2) of the Finance Act 2005 (c.7), sections 6(2) and 7(2) of the Finance Act 2006 (c.25), section 10(2) of the Finance Act 2007 (c.11) and sections 13(3) and 15(2) of the Finance Act 2008 (c.9).

(**b**) 1979 c. 5.

(**c**) Section 6AA was inserted by section 5(4) of the Finance Act 2002 (c. 23) and amended by section 4(2) of the Finance Act 2003 (c. 14), sections 5(2) and 11 of the Finance Act 2004 (c.12), sections 4(4) and 5(3) of the Finance Act 2005 (c. 7), sections 6(3) and 7(3) of the Finance Act 2006 (c.25), section 10(3) of the Finance Act 2007 (c.11) and section 15(3) of the Finance Act 2008 (c.9).

(**d**) Section 6AD was inserted by section 10(3) of the Finance Act 2004 (c.12) and amended by sections 4(5) and 5(4) of the Finance Act 2005 (c.7), sections 6(4) and 7(4) of the Finance Act 2006 (c.25), section 10(4) of the Finance Act 2007(c.11) and section 15(4) of the Finance Act 2008 (c.9).

(**e**) Relevant amendments were made to section 11 by section 2(2) and (3) of the Finance Act 1986 (c.41), section 5 of the Finance Act 1996 (c. 8), section 7(5) of, and Part 1 of Schedule 18 to, the Finance Act 1997 (c.16), section 10(2) of the Finance Act 2000 (c. 17), paragraph 3 of Schedule 2 to the Finance Act 2002 (c. 23), section 5(1) of the Finance Act 2003 (c. 14), sections 5(3) and 10(5) of the Finance Act 2004 (c.12), sections 4(7) and 5(6) of the Finance Act 2005 (c.7), section 7(6) of the Finance Act 2006 (c.25), section 10(6) of the Finance Act 2007 (c.11) and section 13(5) and 15(6) of the Finance Act 2008 (c.9).

(b) the right to rebate allowed on kerosene by section 13AA(1) (kerosene not for road fuel use or heating) of the Oil Act(**a**);

(c) the right to rebate allowed on heavy oil by section 13ZA (certain heavy oil used for heating etc.) of the Oil Act(**b**);

(d) the right to rebate allowed on light oil by section 14(1) (light oil for use as furnace fuel) of the Oil Act(**c**);

(e) the right to rebate allowed on biodiesel by section 14A(2)(**d**) (biodiesel not for road fuel use) of the Oil Act,

by the addition to the amount allowable of the percentage specified in column *(C)*.

Table B

	(A)	*(B)*	*(C)*	*(D)*
	Product	Rebate allowable before adjustment (pence per litre)	Percentage addition	Rebate allowable after adjustment (pence per litre)
(a)	Fuel oil	42.69	0.87	43.06
(b)	Gas oil	42.28	0.90	42.66
(c)	Kerosene	42.28	0.90	42.66
(d)	Other heavy oil	42.69	0.87	43.06
(e)	Light oil	52.41	0.71	52.78
(f)	Biodiesel	22.28	1.71	22.66

(2) The figures in columns *(B)* and *(D)* are only for ease of reference and comprehension of effect.

Adjustments of liability to fuel substitutes duty

5.—(1) This article applies where the rate of fuel substitutes duty for a product is prescribed by the Other Fuel Substitutes (Rates of Excise Duty etc.) Order 1995(**e**) by reference to the rate of hydrocarbon oil duty specified in the Oil Act for—

(a) unleaded petrol,

(b) light oil other than unleaded petrol,

(c) heavy oil, or

(d) aviation gasoline.

(2) The liability to fuel substitutes duty in the case described by paragraph (1)(a) is decreased by making the like adjustment as that made by article 3 in the case of the product specified in row *(a)* of Table A.

(3) The liability to fuel substitutes duty in the case described by paragraph (1)(b) is decreased by making the like adjustment as that made by article 3 in the case of the product specified in row *(b)* of Table A.

(4) The liability to fuel substitutes duty in the case described by paragraph (1)(c) is decreased by making the like adjustment as that made by article 3 in the case of the product specified in row *(c)* of Table A.

(**a**) Section 13AA was inserted by section 5(4) of the Finance Act 1996 (c. 8) and amended by section 7(6) of the Finance Act 1997 (c. 16), sections 7(6) and 10(6) of the Finance Act 2004 (c. 12), section 4(8) of the Finance Act 2005 (c. 7) and section 13(6) of the Finance Act 2008 (c.9).

(**b**) Section 13ZA was inserted by the Finance Act 2008 (c.9), Schedule 6, paragraph 28.

(**c**) Relevant amendments were made by section 5(2) of the Finance Act 2003 (c. 14), section 5(5) of the Finance Act 2004 (c. 12), sections 4(10) and 5(8) of the Finance Act 2005 (c.7), section 7(8) of the Finance Act 2006 (c.25), section 10(8) of the Finance Act 2007 (c.11) and section 15(7) of the Finance Act 2008 (c.9).

(**d**) Section 14A was inserted by the Finance Act 2008 (c.9), Schedule 5, paragraph 13 and amended by section 15(8) of that Act.

(**e**) S.I. 1995/2716, amended by S.I. 2002/3042, S.I. 2004/2062 and S.I.2008/754.

(5) The liability to fuel substitutes duty in the case described by paragraph (1)(d) is decreased by making the like adjustment as that made by article 3 in the case of the product specified in row *(d)* of Table A.

Alan Campbell
Dave Watts
13th August 2008 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st October 2008, adjusts the liabilities to excise duty (and, where applicable, the rights to rebate in respect of such duty) in respect of liquid fuels that are chargeable by virtue of the Hydrocarbon Oil Duties Act 1979 (c.5) ("the Oil Act"). The adjustments made by this Order negate, temporarily, the effect of section 15 of the Finance Act 2008 (c.9) ("the Finance Act") in relation to those fuels. The adjustments are all in the form of a deduction from the amount payable (or an addition to the amount of rebate allowable) of a specified percentage not exceeding 10 per cent.

Adjustments to rebates are dealt with by article 4. Adjustments of liabilities to duty are dealt with by articles 3 and 5. For ease of reference and comprehension of effect, the figures in columns *(B)* and *(D)* of the Tables in this Order indicate the amounts payable (duty liability) or allowable (rebate) both before and after the adjustment is made.

Section 15 of the Finance Act amended the Oil Act so as to increase the effective rates of duty, with effect from 1st October 2008. The result of the adjustments made by this Order is that, while the rates of duty (and rebate) are as set by section 15 of the Finance Act, a person will be entitled to adjust the amount he is actually liable to pay (or allowed by way of rebate) by the amounts specified in this Order: he will be liable to pay the same amount as if section 15 of the Finance Act had not come into effect.

A full and final impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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